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Supreme Court of the United States

OCTOBER TERM, 1938.

No. 826.

HOLTON V. NOYES, as Commissioner of Agriculture and Markets of the State of New York,
Appellant,

against

ROCK ROYAL CO-OPERATIVE, INC., *et al.*,
Appellees.

BRIEF FOR APPELLANT AND MEMORANDUM OF THE ECONOMIC AND HISTORIC BACKGROUND OF THE MILK PROBLEM IN NEW YORK STATE.

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HOLTON V. NOYES, as Commissioner of Agriculture and Markets of the State of New York,
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against

ROCK ROYAL CO-OPERATIVE, INC., *et al.*,
Appellees.

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF NEW YORK.

BRIEF FOR APPELLANT AND MEMORANDUM OF THE ECONOMIC AND HISTORIC BACKGROUND OF THE MILK PROBLEM IN NEW YORK STATE.

Opinions Below.

The District Court rendered two opinions. One denied the motion of the appellant to strike certain portions of the answers of the appellees (R. 105), and the second opinion was rendered after the trial of the actions. (R. 743.) Neither opinion is as yet reported.

Jurisdiction.

The jurisdiction of this court is invoked under Section 2 of the Act of August 24, 1937, 50 Stat. 752 (28 U. S. C., Sec. 349 a).

The decree of the District Court was entered March 21, 1939, and the petition for appeal was allowed March 21, 1939. The case was docketed in this court March 23, 1939, and the court entered an order noting probable jurisdiction on April 3, 1939.

Statement of the Case.

The statute involved is the Agriculture Marketing Agreement Act of 1937 (Public No. 137, 75th Congress, 50 Stat. 246), which reenacted and amended certain provisions of the Agricultural Adjustment Act of 1933 (48 Stat. 31), which had been added to the original Agricultural Adjustment Act by an amendment enacted August 24, 1935. (49 Stat. 750.) The regulation involved is order No. 27 issued thereunder by the Secretary of Agriculture, regulating the handling of milk in the New York Milk Marketing Area which is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce. The New York Metropolitan Milk Marketing Area is defined in said order to include the City of New York, and the Counties of Nassau, Suffolk and Westchester, all in the State of New York. (R. 13.)

The defendants having failed to pay their indebtedness to the Market Administrator, the United States of America on October 27, 1938, as plaintiff, commenced

an action against the defendants Rock Royal Co-Operative, Inc., Schuyler Junction New York Milk Shed Co-Operative, Inc., and Central New York Co-Operative Association, Inc. (R. 11), and another action against Jetter Dairy Company, Inc. on November 23, 1938 (R. 40). By an order of the Court below, these actions were consolidated. (R. 61.) These complaints in effect were for mandatory injunctions to compel the defendants to comply with Order No. 27 issued by the Secretary of Agriculture. In the action against the defendants Rock Royal Co-Operative, Inc., Schuyler Junction New York Milk Shed Co-Operative, Inc., and the Central New York Co-Operative Association, Inc., the complaint prayed in the alternative that the defendants comply with Official Order No. 126 issued by the Commissioner of Agriculture and Markets of the State of New York under Chapter 383 of the Laws of 1937 of the State of New York.

Thereafter, Holton V. Noyes, as Commissioner of Agriculture and Markets of the State of New York, the appellant herein, moved for an order under Rule 24-B of the Rules of Federal Procedure, permitting him to intervene as party plaintiff, on the ground that his claim is ancillary to the claims as set forth in the complaints of the plaintiff, the United States of America; that official order No. 126, issued by him under Chapter 383 of the Laws of 1937 of the State of New York, was complementary to Order No. 27 issued by the Secretary of Agriculture; and that the question of whether the defendants are subject to the federal order or the state order presents a single controversy, and that his claim is ancillary to the claim set forth in the original complaints. (R. 47.) The said

motion permitting Holton V. Noyes, as Commissioner of Agriculture and Markets to intervene as a party plaintiff was granted by consent of all the parties. (R. 61.) The complaints of the said intervening plaintiff against the defendants asked for the same relief as the original plaintiff, the United States of America. Upon motion, the Dairymen's League Co-Operative Association, Inc., and the Metropolitan Co-Operative Milk Producers Bargaining Agency, Inc., were permitted to intervene as party plaintiffs.

These actions as consolidated came to trial, and on February 23, 1939, the court below decided among other things, that all of the appellees were handlers subject to order No. 27 issued by the Secretary of Agriculture if such order is valid, and therefore it was unnecessary to decide whether Chapter 383 of the Laws of 1937 was constitutional, and whether official order No. 126, issued by the Commissioner of Agriculture and Markets of the State of New York under the said law was valid, (R. 745) and further dismissed the complaints of the appellant. The appellant appeals from the final order and decree dismissing his bills of complaint.

Assignment of Errors.

The appellant herein specifies the same errors as the appellant, the United States of America, in its appeal No. 771, intended to be argued simultaneously herewith, and this appellant hereby adopts as his brief, the brief filed by the appellant United States of America in case No. 771 aforementioned. In addition, this

appellant files this memorandum concerning the economic and historic background of the milk problem in New York State. In discussing this phase of the case, we will approach it along the following lines:

A. History of Milk Regulation in the State of New York.

B. Need for Regulation of Milk Producers' Prices.

A.

History of Milk Regulation in the State of New York.

This Court is already familiar with the problems of the milk industry in the State of New York, having had before it many and varied discussions of the different phases of the problem, principally in the cases of

Nebbia v. New York, 291 U. S. 502;
Baldwin v. Seelig, 294 U. S. 511;
Borden's Farm Products Co. v. Ten Eyck, 297 U. S. 251.
Hegeman Farms Corporation v. Baldwin, 293 U. S. 163,

to which records and the briefs submitted in connection therewith we hereby respectfully refer.

The dairy problem of the State has been a matter of concern to the legislature for many years. As far back as 1910, the Attorney-General of the State of New York reported to the legislature the results of the investigation made by him, in which he set forth that apparently unlawful means were used in the fixing of prices to producers, and that such prices were unreasonable and unprofitable. See 1938 Legislative Document No. 114, p. 299 (commonly known as Pitcher

Report). In 1916 and 1917, a joint committee of the Senate and Assembly, commonly referred to as the Wicks Committee, made an exhaustive study of the industry. Among the conclusions reached by that committee was that the State was threatened with the possible decay of the dairy industry, and that the distribution of milk should be a regulated public service. (See Pitcher Report, p. 303.) In 1919 the Council of Farms and Markets submitted a report to the legislature (see Pitcher Report, p. 325) covering an investigation of the New York State milk situation, and concluded, among other things, that the surplus problem was acute. Many other investigations and attempts were made at frequent intervals to find a solution for the price problems of the dairy industry. The reports of these various committees were considered in connection with a comprehensive and exhaustive investigation made in 1932-1933 by a joint legislative committee, and the report of that committee (Pitcher Report) to the legislature resulted in the creation, in April 1933, of a Milk Control Board, which was given broad powers to regulate the entire dairy industry of the state, which included the power to fix prices to be paid to producers by the dealers or handlers, as well as to fix prices to be charged to consumers for milk. This power of the Board to fix prices was upheld in *Nebbia v. New York, supra.*

The Milk Control Board thus formed was replaced in 1934 by the Division of Milk Control in the Department of Agriculture and Markets, to which division the powers and duties of the Milk Control Board were transferred. This legislation was commonly known as the "Emergency Milk Control Law." (Article 21-A

of the Agriculture and Markets Law.) This law was extended by acts of three successive legislatures, but was permitted to expire on April 1, 1937. This program failed to produce all of the beneficial results expected, largely because of the State's inability to regulate prices to be paid to producers in other states. *Baldwin v. Seelig, supra.* By reason of such inability to control the price of milk produced in other states, the New York City market was demoralized with milk purchased from out of state producers at prices lower than those paid in New York, and the New York producers not only suffered loss in many instances, but were threatened with the total loss of their market, for in order to protect it the New York producers were forced to meet this competition by selling their milk at disastrously low prices.

About one-third of the milk produced for sale in the Metropolitan marketing area is produced in states other than the State of New York. Approximately one-third of the milk produced in the State of New York for sale in the said marketing area is handled in the current of interstate commerce. A large part of the milk produced in the State of New York for sale in the marketing area which does not pass through other states on its way to be sold in the marketing area is physically and inextricably intermingled with that milk which is produced outside of the State of New York for sale in the marketing area, or which is produced in the State of New York for sale in the marketing area, but which passes through other states on its way to be sold in the marketing area. Certain plants located in the State of New York receive some milk which has crossed state lines, and some which has not. The milk from both sources is mixed together at such plants, and

each loses its separate identity, so that it is impossible to distinguish between the milk which has crossed state lines and that which has not crossed state lines in transit to the marketing area. At least 75% of the milk sold in the marketing area either crosses state lines or has become co-mingled with milk which has crossed state lines in transit to the marketing area. (R. 6.)

The need for federal price regulation was impressed upon the entire nation by the consequences which followed the decision of *Baldwin v. Seelig, supra.* A petition* was addressed to the Secretary of Agriculture by representatives of seven state governments a few days after the Seelig decision was handed down, requesting federal price regulation to take the place of state price control.

In an attempt to alleviate hardships to producers resulting from the continued sale of milk below cost, the legislature in 1937 passed what is generally known as the Rogers-Allen Law, Chapter 383 of the Laws of 1937, Section 258-k to 258-n inclusive of the Agriculture and Markets Law, which, in part, authorized the Commissioner of Agriculture and Markets of the State of New York to cooperate with the federal government to effectuate a joint program to insure regulation of all milk handled in the marketing area, regardless of whether the milk was produced in the State of New York, or in other states, and to issue orders setting prices to be paid by handlers to producers. This program was inaugurated with the issuance of official order No. 126 by the Commissioner of Agriculture and Markets, under the Rogers-Allen Law, simultaneously

* See Appendix "A."

th order No. 27 by the Secretary of Agriculture, sued under the Agricultural Marketing Agreement ct of 1937 (Public No. 137, 75th Congress, 50 Stat. 6).

These two orders are complementary, and represent cooperative effort to put such a joint program into fective operation. Both orders operate exactly as ough one joint order had been issued. The same arket Administrator administers both orders, and th orders create one market-wide pool of milk. Un- r the operation of these orders, it is immaterial, erefore, whether a handler complies with the state der or the federal order, so far as the obligation the individual handler is concerned, and also so far concerns the interest of the United States and of e State of New York in insuring the successful opera- n of the joint regulation of the milk supply for the ew York Metropolitan Area.

B.

Need for Regulation of Milk Producers' Prices.

New York State is the richest and most populous ate in the nation. The production and distribution of lk in the State of New York is a paramount industry, d affects in a large measure the health and prosperi- of the people of the state. Dairying is by far the ost important branch of agriculture in the state, elding fully one-half of the total income derived from rm products. According to a statement released on ay 21, 1938, by the Bureau of Agricultural Economics the United States Department of Agriculture, the oss cash income for milk in the State of New York

for the year 1937 was $155,199,000. According to an earlier report of the same agency, the gross cash income for milk in the State of New York for the year 1929 was $201,520,000. The size of this income measures the purchasing power of the dairy farmer for the goods and services offered by all other lines of business and professions. Investments in land, buildings, equipment, and live stock on the dairy farms of the State amount to upwards of $1,000,000,000. A large part of the income which is required to support town and county government is derived from taxes levied against dairy farm property.

The furnishing of an adequate and reliable supply of fresh, wholesome milk to a large and populous metropolitan area in the State of New York presents problems peculiar to the milk industry. Pure, wholesome milk is a very important element of diet. It is a highly perishable commodity, and an ideal disease carrier, and, unless handled promptly, and under proper sanitary conditions, it deteriorates very rapidly, and becomes unfit for use as fluid milk. For this reason the various health authorities in the marketing area require that all milk that is sold in the marketing area in fluid form be produced on farms and handled at plants approved by them, and operated in accordance with rigid sanitary regulations. In August 1938 there were 54,111 producers whose dairies had been approved for Grade B milk for sale in the City of New York, which is part of the Metropolitan Marketing area, and 6109 producers of Grade A milk, or a total of 60,220, located in the states of New York, Pennsylvania, New Jersey, Massachusetts, Connecticut and Vermont, known as the production area. Approxi-

mately 420 country milk receiving stations for Grade B milk and approximately 86 for Grade A milk, or a total of approximately 506 milk receiving stations in the said production area (Findings 27, 28, 29—R. 133, 134). Milk produced on unapproved farms or delivered to unapproved plants is not permitted to be sold in the marketing area. Compliance with such stringent sanitary regulations as imposed by the various health authorities greatly increases the cost of producing milk. While milk which is produced on farms and handled at plants which do not comply with these sanitary regulations cannot be sold as fluid milk in the marketing area, it is suitable for use in the manufacture of dairy products, such as ice cream, butter, and cheese. Since milk can be produced on unapproved farms which are under less exacting sanitary conditions at a substantially lower cost, the producer whose milk is approved for sale in the marketing area cannot compete in the general market for milk and its products, and he cannot, therefore, afford to produce milk in compliance with the sanitary regulations unless he can market a reasonable proportion of his milk in fluid form, at prices higher than the prices paid for milk used for manufacturing purposes.

This Court, in the Nebbia case, had before it the report of the Pitcher Committee *supra,* which drafted the Emergency Milk Control Law, and which devoted considerable attention to the health aspects of milk. The facts found in that report at pages 70-73 are of interest here.*

If the farms approved by the various Health Departments of the New York Metropolitan Milk Marketing

* See Appendix "B."

Area produce just enough milk at all seasons of the year to satisfy the demand of the consumers for fluid milk, or if milk could be stored for a considerable period of time, the problems with which order No. 27 issued by the Secretary of Agriculture deals would not exist, but the facts involved in the production of milk prevent an exact correlation between supply and demand, and the physical nature of milk makes its storage in fluid form impossible. The demand for fluid milk fluctuates to some extent from day to day. The production of milk, on the other hand, is subject to wide seasonal fluctuations. The amount of milk produced by a cow depends upon climatic conditions, the feed supplied to the cow, and the cow's stage of lactation, as well as her condition of health. The peak of production is reached during the spring and early summer. Because feeds are less plentiful and more expensive during the fall and winter, the supply of milk in the spring will be normally greatly in excess of the supply during the fall and winter, and also greatly in excess of the demand. In order to insure an adequate supply of milk at all times, it is necessary for the health authorities in the marketing area to approve sufficient producers to supply adequately the market demand for milk during the winter months or short season, including a surplus sufficient to take care of daily fluctuations in demand. For that reason, at the seasons of the year when production of milk exceeds the demand for milk in fluid form, it is necessary that milk in excess of that used in fluid form be converted into manufactured products, the prices of which are lower than milk sold in fluid form. Therefore, a price plan which allows a handler to pay a price for fluid milk commensurate with its value when used in fluid form and a lower price for

hat which is converted into manufactured products be-
omes necessary if all of the milk which is produced
luring such seasons is to find a market. A classified
rice plan which allows handlers to pay for milk ac-
ording to the use they make of such milk provides a
levice which allows handlers to purchase milk in such
manner that they can utilize all of the production at
ll times of the year, and thereby affords producers
market for their milk during the whole year. Unless
andlers are afforded such a pricing method, they will
ither take only a portion of a producer's milk, or will
efuse to purchase milk from some producers during
ush periods.

Pricing methods whereby milk is purchased and paid
or according to the use to which such milk is put, have
een termed "classification" or "class-use" pricing
lans, and such class-use pricing plan was adopted in
933 with the institution of the Emergency Milk Con-
rol Law in New York. To a large extent, the success
f any class-use pricing plan depends upon its gen-
ral acceptance and universal use in the market. Un-
ss the system is universally applied, conditions of
nstability must arise because of the favorable posi-
on which the handler who does not pay for milk un-
er the class-use method (known as flat price buyer)
able to maintain in the market. The flat price buyer
nds that he can purchase all of his milk from produc-
rs at a price equal to or only slightly higher than the
verage price paid by the handler who does purchase
n a class-use basis, but who has a smaller percentage
f his sales in the higher-priced classifications, and
hose price to producers is an average derived from
he value of milk in the various uses. The flat-price

buyer, having secured the milk which he uses for sale in fluid form at prices materially lower than the price paid for milk in the same use by his competitor who purchases under a class-use system, is then able to cut prices at wholesale and retail. This fact causes the class-use buyer either to cut prices in retaliation, or to lose his fluid milk sales. Although the fluid milk purchased by both types of buyers has been produced in conformity with the strict health standards applicable to fluid milk (with resulting higher costs of production), this downward price spiral once set in motion may continue until prices for fluid milk are reduced to the level paid for milk used solely for manufacturing purposes.

As shown above, the nature of the milk industry makes a surplus of milk inevitable, and the only manner in which prices for fluid milk can be stabilized is to require that the burden of the surplus milk be shared equally by all the handlers and all the producers.

In *Nebbia v. New York, supra,* at pp. 516, 517, this Court said:

> "The fluid milk industry is affected by factors of instability peculiar to itself which call for special methods of control. Under the best practicable adjustment of supply to demand the industry must carry a surplus * * * because milk, an essential food, must be available as demanded by consumers every day in the year, and demand and supply vary from day to day and according to the season; but milk is perishable, and cannot be stored. * * * Thus surplus milk presents a serious problem, as the prices which can be realized for it for other

uses are much less than those obtainable for milk sold for consumption in fluid form, or as cream. A satisfactory stabilization of prices for fluid milk requires that the burden of surplus milk be shared equally by all producers and all distributors in the milk shed."

So long as the surplus burden is unequally distributed, the desire to market surplus milk in fluid form will be a serious disturbing factor in the marketing area. The fact that some distributors find its necessary to carry large quantities of surplus milk, while others do not, leads to price-cutting and other forms of destructive competition. Those distributors, who take no responsibility for the surplus, by purchasing their milk at the blended prices (*i. e.*, an average between the price paid the producer for milk for sale as fluid milk and the lower surplus milk price paid by those who assume responsibility for surplus) can undersell the others. Indulgence in this practice naturally results in a lower price to the producer.

Order No. 27 contains provisions for a classified price plan in order to place all handlers of milk in the same position with regard to their purchases.

If handlers are to be placed on an equal footing in their purchases of milk and pay for it according to its ultimate utilization, then producers should likewise share equally the burden of surplus.

The lack of any plan for an equitable distribution of the fluid milk sales among all the producers, and the sharing equally of the burden of surplus, was an-

other cause for price cutting and demoralization in the marketing area. There was always a constant effort on the part of producers to get a high proportion of their milk into the fluid market. By cutting prices, a group of producers could induce a handler to purchase its milk for use in the fluid class. This resulted in placing such handler in a position to further increase his fluid milk sales by cutting resale prices with the milk he purchased from producers at cut prices.

Order No. 27, however, also cures this situation, by providing for a market wide equalization pool which, in effect, gives to each producer a uniform price subject to freight and butterfat differentials. This results in each producer having an equal share in the fluid market and makes each producer share the burden of surplus.

The question of equalization was before the United States District Court for the Southern District of Ohio, Western Division, in the case of *United States of America v. Krechting,* (unreported), and in the United States District Court of the District of Massachusetts in the case of *United States of America, et al. v. H. P. Hood & Sons, et al.,* 21 Fed. Supp. 321. The defendants in these cases attacked as unconstitutional the Agricultural Marketing Agreement Act as well as the provisions of equalization contained in the orders issued under that act. The courts in each case sustained the validity of the equalization provisions, citing the case of *Nebbia v. New York, supra.*

CONCLUSION.

It is respectfully submitted that the lower court erred in dismissing the bills of complaint of the appellant herein, and the decree of the court below should be reversed.

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Counsel for New York State Department of Agriculture and Markets.

LOUIS S. WALLACH,
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APPENDIX A.

(Petition of Seven States: See Page 8)

TO Hon. Henry A. Wallace,
Secretary of Agriculture,
Washington, D. C.

The States of New York, New Jersey, Pennsylvania, Maryland, Massachusetts, Vermont, and Connecticut, constituting a natural production and marketing area, acting through duly designated representatives appointed by the Governors of the States in conference assembled, respectfully and urgently petition you as Secretary of Agriculture to exercise the authority conferred under the Act of Congress known as the Agricultural Adjustment Act, amendments thereto and otherwise, to the end that the power therein delegated to the Secretary of Agriculture may be exercised immediately and effectively in cooperation with the exercise of the police power vested in the said sovereign

States, in order to correct a condition that threatens the dairy industry and which affects adversely the health and welfare of a large portion of the population of the United States; and

Whereas the production and distribution of milk is a paramount industry in said States; and

Whereas the necessity of assuring an adequate, constant supply of pure and wholesome milk to this large and concentrated part of the population of the country, together with the existence of an economic emergency which has temporarily disturbed the orderly processes of production and distribution of milk, have led to the enactment of milk control laws in the States of this area; and

Whereas it is a matter of grave concern to the welfare of the nation that these producers living under conditions that make it difficult to develop cohesion and to bargain effectively, be protected in their marketing operations; and

Whereas recent decisions of the Supreme Court of the United States have recognized that the respective States, through their milk control laws, have exclusive jurisdiction over intrastate commerce in milk and one decision has held in substance that a state is without power to fix the price of milk to be paid a producer outside the state when such milk moves into the state in the channels of interstate commerce; and

Whereas the regulation of the interstate commerce aspect of the milk problem is regarded as emergent

and vitally essential to the regulation of the milk industry within this area;

Now, therefore, the signatories hereto representing the several States within the area respectfully request that you forthwith place such area under federal license so as to include and regulate the operations of all persons trafficking in or transporting milk in the channels of interstate commerce within such area, all to the purpose of securing for all producers an adequate, equitable and reasonable price for the milk sold or used in such area, and that such purpose be achieved, among other ways, by making the prices and price conditions established by the Control Boards of the respective states applicable to milk moving in interstate commerce into such states.

March 26, 1935.

PETER G. TEN EYCK
For the State of New York

WILLIAM B. DURYEE
For the State of New Jersey

HARRY POLIKOFF
For the Commonwealth of Penna.

DAVID G. HARRY
For the State of Maryland

JOSEPH C. CORT
For the Commonwealth of Mass.

EDWARD H. JONES
For the State of Vermont

CHARLES G. MORRIS
For the State of Connecticut.

APPENDIX B.

Extract from New York Legislative Document 1933, No. 114, pages 70-73 (Pitcher Report). (See page 11.)

"The consequences of very inadequate returns to the producers of milk are likely to manifest themselves (1) in a lowering of quality because of enforced relaxation of safeguards in the production and distribution of milk; (2) in a gradual curtailment of the supply of milk produced in the milk shed which meets the special requirements for New York and other cities; (3) in possible interruptions of the milk supply due to strikes and disorders.

"The price of milk has a very definite relation to its quality. Strict supervision and control of milk supplies are necessary for the protection of public health, and to encourage generous use of this important food. At the same time, these sanitary regulations add much to the cost of producing and handling market milk. Regulations in respect to the examination and health of cattle tend to increase the investment which the farmer has to make in livestock, and the annual depreciation thereon. The regulations in respect to stables —floors, light, ventilation, whitewashing, separation of horses—and milk house separated from the stable, likewise add to the producer's investment and the overhead costs of producing milk.

"The requirement that milk be cooled to 60 degrees or lower immediately after milking usually means putting up a supply of natural ice, or providing electrical

refrigeration. A recent survey in Rhode Island showed the cost of electric cooling on the farm to be from 12 to 14 cents per 100 pounds of milk compared to 10 cents per 100 pounds for cooling with ice. If the price received for milk were such as to justify the purchase of electrical coolers, they soon would be generally used on the dairy farms and the quality of milk would be much improved. Special care in the handling of milk both on the farm and in the process of transportation and distribution is necessary to keep the bacteria count below the prescribed maximum, and this further increases the expense. Market milk must be delivered to the plant every day, usually at an early hour, while cream for buttermaking need be delivered only from once to three times a week.

* * * * *

"The effect of modern sanitary control upon the costs of producing and handling milk explains in part the wide spread between the price paid for milk by the consumer and the price received by the producer. It also clearly indicates the necessity for a premium to the producer for market milk over the price ordinarily received for milk which is produced for butter or cheese factories. Unless such a premium were paid, the producers obviously would not continue to go to the expense of meeting the special requirements for market milk. They would find it more profitable to deliver milk to cheese factories or cream to butter factories. Of course, quality standards for market milk will be maintained during short periods when prices do not fully compensate producers or dealers for the necessary costs. However, an extended period of prices much below the costs of producing milk in accordance with these standards would inevitably have

an unfavorable effect upon the quality of the m
supply. Eventually there would be a shortage of m
which fully met the requirements. Further, it m
be realized that the sanitary requirements imposed
the cities and the state are minimum standards. Si
a large part of the milk supply normally is well abo
these minimum standards, a considerable decline
quality may occur without violating the official
quirements.

"This view of the probable effect of inadequate pri
returns upon the quality of the milk supply was
fectively expressed by Dr. Paul B. Brooks, Depu
Commissioner of Health of the State of New York,
a letter to the Committee. 'In my opinion', said D
Brooks, 'there is no doubt but that the low price
ceived by the producer for milk and the general di
turbed conditions in the milk industry are bound
have an unfavorable effect on the safety and gener
quality of milk sold in the state.'

"The statement of Dr. Russell (Chairman of t
Milk Committee of the Department of Health, Sta
of New Jersey) also emphasizes this point. 'In th
long run,' he said, 'the public will get what it pay
for. If sanitary regulations break down and becom
unenforceable, the public may get a cheap article, b
it will not be either safe or wholesome.'

"A similar view of the effect of low prices upon th
quality of milk was expressed by Mr. Floyd Shime
producer, and President of the Farm Bureau of Je
ferson County, in his testimony before the Committe
'* * * Cheap milk will have its effect on quality. La

of funds will mean that many of those improvements which tend towards better quality will not be had. Present continued low prices are bound to discourage the producer and there will be among some a feeling that quality, under present conditions, is not to them an important factor.' "